

AMENDED IN ASSEMBLY MAY 24, 1999

AMENDED IN ASSEMBLY MAY 10, 1999

AMENDED IN ASSEMBLY APRIL 19, 1999

AMENDED IN ASSEMBLY APRIL 5, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 1236

Introduced by Assembly Member Battin

February 26, 1999

An act to amend Sections 25189.5, 25189.6, and 25189.7 of the Health and Safety Code, to amend Sections 237, 289, 666.5, 666.7, 667.70, 803, ~~1170.1~~, 1170.11, 1192.8, ~~1203.049~~, and ~~1385 and 1203.049~~ of, and to repeal Section 667.72 of, the Penal Code, and to amend Section 23558 of the Vehicle Code, relating to maintenance of criminal provisions, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1236, as amended, Battin. Maintenance of criminal provisions.

(1) Existing law, as amended by initiative statute, makes it a felony or a misdemeanor for any person to knowingly dispose, transport, burn, incinerate, cause to be disposed, transported, burned, or incinerated, treat, or store any hazardous waste, or who reasonably should have known that he or she was disposing, transporting, burning, or incinerating, any hazardous waste, at a facility that does not

have a specified permit, or at any unauthorized point. If that act caused great bodily injury or a substantial probability that death could result, the person may be punished by imprisonment in the state prison for up to 36 months. The initiative statute provides that any amendment of its provisions by the Legislature shall require a $\frac{2}{3}$ vote of the membership of each house.

This bill would provide that the person shall be punished by an additional term of imprisonment in the state prison for one, 2, or 3 years under these circumstances. The bill would make other technical, nonsubstantive changes to these provisions. Because it would amend an initiative statute, the bill would require a $\frac{2}{3}$ vote.

(2) Existing law lists and categorizes, for reference purposes only, all sentence enhancements by schedules based on the length of the term of imprisonment imposed by each sentence enhancement. Existing law declares the intent of the Legislature to amend this provision as necessary to accurately reflect current sentence enhancement provisions.

This bill would update this provision to include new sentence enhancement provisions and delete obsolete provisions.

~~(3) Existing law provides that when any person is convicted of 2 or more felonies, and a consecutive term of imprisonment is imposed, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term, and any additional term imposed for applicable enhancements, as specified, except as provided under certain specified provisions.~~

~~This bill would expand the above exception by providing instead that the aggregate term of imprisonment shall be figured as set forth above, except as otherwise provided by law.~~

~~(4) Existing law provides that for any violation of specified provisions, the number of enhancements that may be imposed shall be limited, each of the enhancements imposed shall be a full and separately served enhancement, and each of the enhancements imposed shall not be merged with any other enhancement.~~



~~This bill would make the above provision applicable to the violation of an additional group of provisions and would delete the merger prohibition of the above provision.~~

~~(5) Existing law provides that the judge or magistrate may, either of his or her own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed, except that no dismissal shall be made for any cause which would be ground of demurrer to the accusatory pleading. Existing law provides that this provision does not authorize a judge to strike any prior conviction of a serious felony for purposes of enhancement of a sentence under the law relating to habitual criminals.~~

~~This bill would provide that, except as specified, if the court has the authority pursuant to the former provision to strike or dismiss an enhancement, the court may instead strike the additional punishment for any enhancement in the furtherance of justice.~~

~~(6) Existing law provides that a habitual child molester, as defined, shall be punished by 25 years in the state prison.~~

~~This bill would delete this provision.~~

~~(7)~~

~~(4) This bill would make technical changes that conform to and consolidate other provisions of law, delete language that is duplicative of other provisions of law, and correct cross-references to other provisions of law.~~

~~(8)~~

~~(5) The bill would provide that certain of its provisions shall not take effect until July 1, 1999, if this bill is enacted and becomes operative prior to that date.~~

~~(9)~~

~~(6) The bill would declare that it is to take effect immediately as an urgency statute.~~

~~Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.~~

The people of the State of California do enact as follows:

1 SECTION 1. Section 25189.5 of the Health and Safety
2 Code is amended to read:



1 25189.5. (a) The disposal of any hazardous waste, or
2 the causing thereof, is prohibited when the disposal is at
3 a facility which does not have a permit from the
4 department issued pursuant to this chapter, or at any
5 point which is not authorized according to this chapter.

6 (b) Any person who is convicted of knowingly
7 disposing or causing the disposal of any hazardous waste,
8 or who reasonably should have known that he or she was
9 disposing or causing the disposal of any hazardous waste,
10 at a facility which does not have a permit from the
11 department issued pursuant to this chapter, or at any
12 point which is not authorized according to this chapter
13 shall, upon conviction, be punished by imprisonment in
14 a county jail for not more than one year or by
15 imprisonment in the state prison.

16 (c) Any person who knowingly transports or causes
17 the transportation of hazardous waste, or who reasonably
18 should have known that he or she was causing the
19 transportation of any hazardous waste, to a facility which
20 does not have a permit from the department issued
21 pursuant to this chapter, or at any point which is not
22 authorized according to this chapter, shall, upon
23 conviction, be punished by imprisonment in a county jail
24 for not more than one year or by imprisonment in the
25 state prison.

26 (d) Any person who knowingly treats or stores any
27 hazardous waste at a facility which does not have a permit
28 from the department issued pursuant to this chapter, or
29 at any point which is not authorized according to this
30 chapter, shall, upon conviction, be punished by
31 imprisonment in a county jail for not more than one year
32 or by imprisonment in the state prison.

33 (e) The court also shall impose upon a person
34 convicted of violating subdivision (b), (c), or (d), a fine
35 of not less than five thousand dollars (\$5,000) nor more
36 than one hundred thousand dollars (\$100,000) for each
37 day of violation, except as further provided in this
38 subdivision. If the act which violated subdivision (b), (c),
39 or (d) caused great bodily injury, or caused a substantial
40 probability that death could result, the person convicted

1 of violating subdivision (b), (c), or (d) shall be punished
2 by imprisonment in the state prison for one, two, or three
3 years, in addition and consecutive to the term specified
4 in subdivision (b), (c), or (d), and may be fined up to two
5 hundred fifty thousand dollars (\$250,000) for each day of
6 violation.

7 (f) For purposes of this section, except as otherwise
8 provided in this subdivision, “each day of violation”
9 means each day on which a violation continues. In any
10 case where a person has disposed or caused the disposal
11 of any hazardous waste in violation of this section, each
12 day that the waste remains disposed of in violation of this
13 section and the person has knowledge thereof is a
14 separate additional violation, unless the person has filed
15 a report of the disposal with the department and is
16 complying with any order concerning the disposal issued
17 by the department, a hearing officer, or court of
18 competent jurisdiction.

19 SEC. 2. Section 25189.6 of the Health and Safety Code
20 is amended to read:

21 25189.6. (a) Any person who knowingly, or with
22 reckless disregard for the risk, treats, handles, transports,
23 disposes, or stores any hazardous waste in a manner which
24 causes any unreasonable risk of fire, explosion, serious
25 injury, or death is guilty of a public offense and shall, upon
26 conviction, be punished by a fine of not less than five
27 thousand dollars (\$5,000) nor more than two hundred
28 fifty thousand dollars (\$250,000) for each day of violation,
29 or by imprisonment in a county jail for not more than one
30 year, or by imprisonment in the state prison, or by both
31 the fine and imprisonment.

32 (b) Any person who knowingly, at the time the person
33 takes the actions specified in subdivision (a), places
34 another person in imminent danger of death or serious
35 bodily injury, is guilty of a public offense and shall, upon
36 conviction, be punished by a fine of not less than five
37 thousand dollars (\$5,000) nor more than two hundred
38 fifty thousand dollars (\$250,000) for each day of violation,
39 and by imprisonment in the state prison for 3, 6, or 9 years.

1 SEC. 3. Section 25189.7 of the Health and Safety Code
2 is amended to read:

3 25189.7. (a) The burning or incineration of any
4 hazardous waste, or the causing thereof, is prohibited
5 when the burning or incineration is at a facility which
6 does not have a permit from the department issued
7 pursuant to this chapter, or at any point which is not
8 authorized according to this chapter.

9 (b) Any person who is convicted of knowingly burning
10 or incinerating, or causing the burning or incineration of,
11 any hazardous waste, or who reasonably should have
12 known that he or she was burning or incinerating, or
13 causing the burning or incineration of, any hazardous
14 waste, at a facility which does not have a permit from the
15 department issued pursuant to this chapter, or at any
16 point which is not authorized according to this chapter,
17 shall, upon conviction, be punished by imprisonment in
18 a county jail for not more than one year or by
19 imprisonment in the state prison.

20 (c) The court also shall impose upon a person
21 convicted of violating subdivision (b) a fine of not less
22 than five thousand dollars (\$5,000) nor more than one
23 hundred thousand dollars (\$100,000) for each day of
24 violation, except as otherwise provided in this
25 subdivision. If the act which violated subdivision (b)
26 caused great bodily injury or caused a substantial
27 probability that death could result, the person convicted
28 of violating subdivision (b) shall be punished by
29 imprisonment in the state prison for one, two, or three
30 years, in addition and consecutive to the term specified
31 in subdivision (b), and may be fined up to two hundred
32 fifty thousand dollars (\$250,000) for each day of violation.

33 SEC. 4. Section 237 of the Penal Code is amended to
34 read:

35 237. (a) False imprisonment is punishable by a fine
36 not exceeding one thousand dollars (\$1,000), or by
37 imprisonment in the county jail for not more than one
38 year, or by both that fine and imprisonment. If the false
39 imprisonment be effected by violence, menace, fraud, or

1 deceit, it shall be punishable by imprisonment in the state
2 prison.

3 (b) False imprisonment of an elder or dependent
4 adult by use of violence, menace, fraud, or deceit shall be
5 punishable as described in subdivision (f) of Section 368.

6 SEC. 5. Section 289 of the Penal Code is amended to
7 read:

8 289. (a) (1) Any person who commits an act of
9 sexual penetration when the act is accomplished against
10 the victim's will by means of force, violence, duress,
11 menace, or fear of immediate and unlawful bodily injury
12 on the victim or another person shall be punished by
13 imprisonment in the state prison for three, six, or eight
14 years.

15 (2) Any person who commits an act of sexual
16 penetration when the act is accomplished against the
17 victim's will by threatening to retaliate in the future
18 against the victim or any other person, and there is a
19 reasonable possibility that the perpetrator will execute
20 the threat, shall be punished by imprisonment in the state
21 prison for three, six, or eight years.

22 (b) Except as provided in subdivision (c), any person
23 who commits an act of sexual penetration, and the victim
24 is at the time incapable, because of a mental disorder or
25 developmental or physical disability, of giving legal
26 consent, and this is known or reasonably should be known
27 to the person committing the act or causing the act to be
28 committed, shall be punished by imprisonment in the
29 state prison for three, six, or eight years. Notwithstanding
30 the appointment of a conservator with respect to the
31 victim pursuant to the provisions of the
32 Lanterman-Petris-Short Act (Part 1 (commencing with
33 Section 5000) of Division 5 of the Welfare and Institutions
34 Code), the prosecuting attorney shall prove, as an
35 element of the crime, that a mental disorder or
36 developmental or physical disability rendered the alleged
37 victim incapable of giving legal consent.

38 (c) Any person who commits an act of sexual
39 penetration, and the victim is at the time incapable,
40 because of a mental disorder or developmental or

1 physical disability, of giving legal consent, and this is
2 known or reasonably should be known to the person
3 committing the act or causing the act to be committed
4 and both the defendant and the victim are at the time
5 confined in a state hospital for the care and treatment of
6 the mentally disordered or in any other public or private
7 facility for the care and treatment of the mentally
8 disordered approved by a county mental health director,
9 shall be punished by imprisonment in the state prison, or
10 in a county jail for a period of not more than one year.
11 Notwithstanding the existence of a conservatorship
12 pursuant to the provisions of the Lanterman-Petris-Short
13 Act (Part 1 (commencing with Section 5000) of Division
14 5 of the Welfare and Institutions Code), the prosecuting
15 attorney shall prove, as an element of the crime, that a
16 mental disorder or developmental or physical disability
17 rendered the alleged victim incapable of giving legal
18 consent.

19 (d) Any person who commits an act of sexual
20 penetration, and the victim is at the time unconscious of
21 the nature of the act and this is known to the person
22 committing the act or causing the act to be committed,
23 shall be punished by imprisonment in the state prison for
24 three, six, or eight years. As used in this subdivision,
25 “unconscious of the nature of the act” means incapable of
26 resisting because the victim meets one of the following
27 conditions:

28 (1) Was unconscious or asleep.

29 (2) Was not aware, knowing, perceiving, or cognizant
30 that the act occurred.

31 (3) Was not aware, knowing, perceiving, or cognizant
32 of the essential characteristics of the act due to the
33 perpetrator’s fraud in fact.

34 (e) Any person who commits an act of sexual
35 penetration when the victim is prevented from resisting
36 by any intoxicating or anesthetic substance, or any
37 controlled substance, and this condition was known, or
38 reasonably should have been known by the accused, shall
39 be punished by imprisonment in the state prison for a
40 period of three, six, or eight years.

(f) Any person who commits an act of sexual penetration when the victim submits under the belief that the person committing the act or causing the act to be committed is the victim's spouse, and this belief is induced by any artifice, pretense, or concealment practiced by the accused, with intent to induce the belief, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

(g) Any person who commits an act of sexual penetration when the act is accomplished against the victim's will by threatening to use the authority of a public official to incarcerate, arrest, or deport the victim or another, and the victim has a reasonable belief that the perpetrator is a public official, shall be punished by imprisonment in the state prison for a period of three, six, or eight years.

As used in this subdivision, "public official" means a person employed by a governmental agency who has the authority, as part of that position, to incarcerate, arrest, or deport another. The perpetrator does not actually have to be a public official.

(h) Except as provided in Section 288, any person who participates in an act of sexual penetration with another person who is under 18 years of age shall be punished by imprisonment in the state prison or in the county jail for a period of not more than one year.

(i) Except as provided in Section 288, any person over the age of 21 years who participates in an act of sexual penetration with another person who is under 16 years of age shall be guilty of a felony.

(j) Any person who participates in an act of sexual penetration with another person who is under 14 years of age and who is more than 10 years younger than he or she shall be punished by imprisonment in the state prison for three, six, or eight years.

(k) As used in this section:

(1) "Sexual penetration" is the act of causing the penetration, however slight, of the genital or anal openings of any person or causing another person to so penetrate the defendant's or another person's genital or

1 anal openings for the purpose of sexual arousal,
2 gratification, or abuse by any foreign object, substance,
3 instrument, or device, or by any unknown object.

4 (2) “Foreign object, substance, instrument, or device”
5 shall include any part of the body, except a sexual organ.

6 (3) “Unknown object” shall include any foreign
7 object, substance, instrument, or device, or any part of
8 the body, including a penis, when it is not known whether
9 penetration was by a penis or by a foreign object,
10 substance, instrument, or device, or by any other part of
11 the body.

12 (l) As used in subdivision (a), “threatening to
13 retaliate” means a threat to kidnap or falsely imprison, or
14 inflict extreme pain, serious bodily injury or death.

15 (m) As used in this section, “victim” includes any
16 person who the defendant causes to penetrate the genital
17 or anal openings of the defendant or another person or
18 whose genital or anal openings are caused to be
19 penetrated by the defendant or another person and who
20 otherwise qualifies as a victim under the requirements of
21 this section.

22 SEC. 6. Section 666.5 of the Penal Code is amended to
23 read:

24 666.5. (a) Every person who, having been previously
25 convicted of a felony violation of Section 10851 of the
26 Vehicle Code, or felony grand theft involving an
27 automobile in violation of subdivision (d) of Section 487
28 or former subdivision (3) of Section 487, as that section
29 read prior to being amended by Section 4 of Chapter 1125
30 of the Statutes of 1993, or felony grand theft involving a
31 motor vehicle, as defined in Section 415 of the Vehicle
32 Code, any trailer, as defined in Section 630 of the Vehicle
33 Code, any special construction equipment, as defined in
34 Section 565 of the Vehicle Code, or any vessel, as defined
35 in Section 21 of the Harbors and Navigation Code in
36 violation of former Section 487h, or a felony violation of
37 Section 496d regardless of whether or not the person
38 actually served a prior prison term for those offenses, is
39 subsequently convicted of any of these offenses shall be
40 punished by imprisonment in the state prison for two,

1 three, or four years, or a fine of ten thousand dollars
2 (\$10,000), or both the fine and the imprisonment.

3 (b) For the purposes of this section, the terms “special
4 construction equipment” and “vessel” are limited to
5 motorized vehicles and vessels.

6 (c) The existence of any fact which would bring a
7 person under subdivision (a) shall be alleged in the
8 information or indictment and either admitted by the
9 defendant in open court, or found to be true by the jury
10 trying the issue of guilt or by the court where guilt is
11 established by plea of guilty or nolo contendere or by trial
12 by the court sitting without a jury.

13 SEC. 7. Section 666.7 of the Penal Code is amended to
14 read:

15 666.7. It is the intent of the Legislature that this
16 section serve merely as a nonsubstantive comparative
17 reference of current sentence enhancement provisions.
18 Nothing in this section shall have any substantive effect
19 on the application of any sentence enhancement
20 contained in any provision of law, including, but not
21 limited to, all of the following: omission of any sentence
22 enhancement provision, inclusion of any obsolete
23 sentence enhancement provision, or inaccurate
24 reference or summary of a sentence enhancement
25 provision.

26 It is the intent of the Legislature to amend this section
27 as necessary to accurately reflect current sentence
28 enhancement provisions, including the addition of new
29 provisions and the deletion of obsolete provisions.

30 For the purposes of this section, the term “sentence
31 enhancement” means an additional term of
32 imprisonment in the state prison added to the base term
33 for the underlying offense. A sentence enhancement is
34 imposed because of the nature of the offense at the time
35 the offense was committed or because the defendant
36 suffered a qualifying prior conviction before committing
37 the current offense.

38 (a) The provisions listed in this subdivision imposing
39 a sentence enhancement of one year imprisonment in the
40 state prison may be referenced as Schedule A.

- 1 (1) Money laundering when the value of transactions
2 exceeds fifty thousand dollars (\$50,000), but is less than
3 one hundred fifty thousand dollars (\$150,000) (subpara.
4 (A), para. (1), subd. (c), Sec. 186.10, Pen. C.).
- 5 (2) Commission of two or more related felonies, a
6 material element of which is fraud or embezzlement,
7 which involve a pattern of related felony conduct,
8 involving the taking of more than one hundred thousand
9 dollars (\$100,000) (para. (3), subd. (a), Sec. 186.11, Pen.
10 C.).
- 11 (3) Felony conviction of willful harm or injury to a
12 child, involving female genital mutilation (Sec. 273.4,
13 Pen. C.).
- 14 (4) Prior conviction of felony hate crime with a
15 current conviction of felony hate crime (subd. (e), Sec.
16 422.75, Pen. C.).
- 17 (5) Harming, obstructing, or interfering with any
18 horse or dog being used by any peace officer in the
19 discharge or attempted discharge of his or her duties and,
20 with the intent to so harm, obstruct, or interfere,
21 personally causing the death, destruction, or serious
22 physical injury of any horse or dog (subd. (c), Sec. 600,
23 Pen. C.).
- 24 (6) Prior prison term with current felony conviction
25 (subd. (b), Sec. 667.5, Pen. C.).
- 26 (7) Commission of any specified offense against a
27 person who is 65 years of age or older, blind, a paraplegic
28 or quadriplegic, or under 14 years of age (subd. (a), Sec.
29 667.9, Pen. C.).
- 30 (8) Showing child pornography to a minor prior to or
31 during the commission or attempted commission of any
32 lewd or lascivious act with the minor (subd. (a), Sec.
33 667.15, Pen. C.).
- 34 (9) Felony conviction of forgery, grand theft, or false
35 pretenses as part of plan or scheme to defraud an owner
36 in connection with repairs to a structure damaged by a
37 natural disaster (Sec. 667.16, Pen. C.).
- 38 (10) Impersonating a peace officer during the
39 commission of a felony (Sec. 667.17, Pen. C.).



(11) Felony conviction of any specified offense, including, but not limited to, forgery, grand theft, and false pretenses, as part of plan or scheme to defraud an owner in connection with repairs to a structure damaged by natural disaster with prior felony conviction of any of those offenses (Sec. 670, Pen. C.).

(12) Commission or attempted commission of a felony while armed with a firearm (para. (1), subd. (a), Sec. 12022, Pen. C.).

(13) Personally using a deadly or dangerous weapon in the commission or attempted commission of a felony (para. (1), subd. (b), Sec. 12022, Pen. C.).

(14) Taking, damaging, or destroying any property in the commission or attempted commission of a felony with the intent to cause that taking, damage, or destruction when the loss exceeds fifty thousand dollars (\$50,000) (para. (1), subd. (a), Sec. 12022.6, Pen. C.).

(15) Transferring, lending, selling, or giving any assault weapon to a minor (para. (2), subd. (a), Sec. 12280, Pen. C.).

(16) Manufacturing, causing to be manufactured, distributing, transporting, importing, keeping for sale, offering or exposing for sale, giving, or lending any assault weapon while committing another crime (subd. (c), Sec. 12280, Pen. C.).

(17) Inducing, employing, or using a minor to commit a drug offense involving heroin, cocaine, or cocaine base, or unlawfully furnishing one of these controlled substances to a minor, upon the grounds of, or within, a church, playground, youth center, child day care facility, or public swimming pool during business hours or whenever minors are using the facility (para. (1), subd. (a), Sec. 11353.1, H.& S.C.).

(18) Inducing another person to commit a drug offense as part of the drug transaction for which the defendant is convicted when the value of the controlled substance involved exceeds five hundred thousand dollars (\$500,000) (para. (1), subd. (a), Sec. 11356.5, H.& S.C.).

1 (19) Manufacturing, compounding, converting,
2 producing, deriving, processing, or preparing
3 methamphetamine or phencyclidine (PCP), or
4 attempting to commit any of those acts, or possessing
5 specified combinations of substances with the intent to
6 manufacture either methamphetamine or phencyclidine
7 (PCP), when the commission or attempted commission
8 of the offense causes the death or great bodily injury of
9 another person other than an accomplice (Sec. 11379.9,
10 H.& S.C.).

11 (20) Using a minor to commit a drug offense involving
12 phencyclidine (PCP), methamphetamine, or lysergic
13 acid diethylamide (LSD), or unlawfully furnishing one of
14 these controlled substances to a minor, when the
15 commission of the offense occurs upon the grounds of, or
16 within, a church, playground, youth center, child day care
17 facility, or public swimming pool during business hours or
18 whenever minors are using the facility (para. (1), subd.
19 (a), Sec. 11380.1, H.& S.C.).

20 (21) Possessing for sale, or selling, heroin, cocaine,
21 cocaine base, methamphetamine, or phencyclidine
22 (PCP), when the commission of the offense occurs upon
23 the grounds of a public park, public library, or oceanfront
24 beach (para. (1), subd. (a), Sec. 11380.5, H.& S.C.).

25 (22) Causing bodily injury or death to more than one
26 victim in any one instance of driving under the influence
27 of any alcoholic beverage or drug (Sec. 23558, Veh. C.).

28 (23) Fraudulently appropriating food stamps,
29 electronically transferred benefits, or authorizations to
30 participate in the federal Food Stamp Program entrusted
31 to a public employee, or knowingly using, transferring,
32 selling, purchasing, or possessing, any of the same in an
33 unauthorized manner, when the offense is committed by
34 means of an electronic transfer of benefits in an amount
35 exceeding fifty thousand dollars (\$50,000), but less than
36 one hundred fifty thousand dollars (\$150,000) (subpara.
37 (A), para. (1), subd. (h), Sec. 10980, W.& I.C.).

38 (b) The provisions listed in this subdivision imposing
39 a sentence enhancement of one, two, or three years'

1 imprisonment in the state prison may be referenced as
2 Schedule B.

3 (1) Commission of a felony for the benefit of, at the
4 direction of, or in association with any criminal street
5 gang, with the specific intent to promote, further, or assist
6 in any criminal conduct by gang members (para. (1),
7 subd. (b), Sec. 186.22, Pen. C.).

8 (2) Commission or attempted commission of a felony
9 hate crime (subd. (a), Sec. 422.75, Pen. C.).

10 (3) Commission or attempted commission of a felony
11 against the property of a public or private institution
12 because the property is associated with a person or group
13 of identifiable race, color, religion, nationality, country of
14 origin, ancestry, gender, disability, or sexual orientation
15 (subd. (b), Sec. 422.75, Pen. C.).

16 (4) Felony conviction of unlawfully causing a fire of
17 any structure, forest land, or property when the
18 defendant has been previously convicted of arson or
19 unlawfully causing a fire, or when a firefighter, peace
20 officer, or emergency personnel suffered great bodily
21 injury, or when the defendant proximately caused great
22 bodily injury to more than one victim, or caused multiple
23 structures to burn (Sec. 452.1, Pen. C.).

24 (5) Carrying a loaded or unloaded firearm during the
25 commission or attempted commission of any felony street
26 gang crime (subd. (a), Sec. 12021.5, Pen. C.).

27 (6) Personally using a deadly or dangerous weapon in
28 the commission of carjacking or attempted carjacking
29 (para. (2), subd. (b), Sec. 12022, Pen. C.).

30 (7) Being a principal in the commission or attempted
31 commission of any specified drug offense, knowing that
32 another principal is personally armed with a firearm
33 (subd. (d), Sec. 12022, Pen. C.).

34 (8) Furnishing or offering to furnish a firearm to
35 another for the purpose of aiding, abetting, or enabling
36 that person or any other person to commit a felony (Sec.
37 12022.4, Pen. C.).

38 (9) Selling, supplying, delivering, or giving possession
39 or control of a firearm to any person within a prohibited
40 class or to a minor when the firearm is used in the

1 subsequent commission of a felony (para. (4), subd. (g),
2 Sec. 12072, Pen. C.).

3 (10) Inducing, employing, or using a minor who is at
4 least four years younger than the defendant to commit a
5 drug offense involving any specified controlled
6 substance, including, but not limited to, heroin, cocaine,
7 and cocaine base, or unlawfully providing one of these
8 controlled substances to a minor (para. (3), subd. (a), Sec.
9 11353.1, H.& S.C.).

10 (11) Prior conviction of inducing, employing, or using
11 a minor to commit a drug offense involving cocaine base,
12 or unlawfully providing cocaine base to a minor that
13 resulted in a prison sentence with a current conviction of
14 the same offense (subd. (a), Sec. 11353.4, H.& S.C.).

15 (12) Prior conviction of inducing, employing, or using
16 a minor to commit a drug offense involving cocaine base,
17 or unlawfully providing cocaine base to a minor with a
18 current conviction of the same offense involving a minor
19 who is 14 years of age or younger (subd. (b), Sec. 11353.4,
20 H.& S.C.).

21 (13) Inducing, employing, or using a minor who is at
22 least four years younger than the defendant to commit a
23 drug offense involving any specified controlled
24 substance, including, but not limited to, phencyclidine
25 (PCP), methamphetamine, and lysergic acid
26 diethylamide (LSD), or unlawfully providing one of
27 these controlled substances to a minor (para. (3), subd.
28 (a), Sec. 11380.1, H.& S.C.).

29 (14) Causing great bodily injury or a substantial
30 probability that death could result by the knowing
31 disposal, transport, treatment, storage, burning, or
32 incineration of any hazardous waste at a facility without
33 permits or at an unauthorized point (subd. (e), Sec.
34 25189.5, and subd. (c), Sec. 25189.7, H.& S.C.).

35 (c) The provisions listed in this subdivision imposing
36 a sentence enhancement of one, two, or five years'
37 imprisonment in the state prison may be referenced as
38 Schedule C.

1 (1) Wearing a bullet-resistant body vest in the
2 commission or attempted commission of a violent offense
3 (subd. (b), Sec. 12022.2, Pen. C.).

4 (2) Commission or attempted commission of any
5 specified sex offense while armed with a firearm or
6 deadly weapon (subd. (b), Sec. 12022.3, Pen. C.).

7 (d) The provisions listed in this subdivision imposing
8 a sentence enhancement of two years' imprisonment in
9 the state prison may be referenced as Schedule D.

10 (1) Money laundering when the value of the
11 transactions exceeds one hundred fifty thousand dollars
12 (\$150,000), but is less than one million dollars (\$1,000,000)
13 (subpara. (B), para. (1), subd. (c), Sec. 186.10, Pen. C.).

14 (2) Commission of two or more related felonies, a
15 material element of which is fraud or embezzlement,
16 which involve a pattern of related felony conduct,
17 involving the taking of more than one hundred fifty
18 thousand dollars (\$150,000) (para. (3), subd. (a), Sec.
19 186.11, Pen. C.).

20 (3) Conviction of any specified felony sex offense that
21 is committed after fleeing to this state under specified
22 circumstances (subd. (d), Sec. 289.5, Pen. C.).

23 (4) Prior conviction of any specified insurance fraud
24 offense with current conviction of willfully injuring,
25 destroying, secreting, abandoning, or disposing of any
26 property insured against loss or damage by theft,
27 embezzlement, or any casualty with the intent to defraud
28 or prejudice the insurer (subd. (b), Sec. 548, Pen. C.).

29 (5) Prior conviction of any specified insurance fraud
30 offense with current conviction of knowingly presenting
31 any false or fraudulent insurance claim or multiple claims
32 for the same loss or injury, or knowingly causing or
33 participating in a vehicular collision for the purpose of
34 presenting any false or fraudulent claim, or providing
35 false or misleading information or concealing information
36 for purpose of insurance fraud (subd. (e), Sec. 550, Pen.
37 C.).

38 (6) Causing serious bodily injury as a result of
39 knowingly causing or participating in a vehicular collision

1 or accident for the purpose of presenting any false or
2 fraudulent claim (subd. (g), Sec. 550, Pen. C.).

3 (7) Harming, obstructing, or interfering with any
4 horse or dog being used by any peace officer in the
5 discharge or attempted discharge of his or her duties and,
6 with the intent to cause great bodily injury, personally
7 causing great bodily injury to any person other than an
8 accomplice (subd. (d), Sec. 600, Pen. C.).

9 (8) Prior conviction of any specified offense with
10 current conviction of any of those offenses committed
11 against a person who is 65 years of age or older, blind, a
12 paraplegic or quadriplegic, or under 14 years of age
13 (subd. (b), Sec. 667.9, Pen. C.).

14 (9) Prior conviction for penetration of genital or anal
15 openings by foreign or unknown object with current
16 conviction of the same offense committed against a
17 person who is 65 years of age or older, blind, deaf,
18 developmentally disabled, a paraplegic or quadriplegic,
19 or under 14 years of age (subd. (a), Sec. 667.10, Pen. C.).

20 (10) Showing child pornography to minor prior to or
21 during the commission or attempted commission of
22 continuous sexual abuse of the minor (subd. (b), Sec.
23 667.15, Pen. C.).

24 (11) Primary care provider in a day care facility
25 committing any specified felony sex offense against a
26 minor entrusted to his or her care (subd. (a), Sec. 674,
27 Pen. C.).

28 (12) Commission of a felony offense while released
29 from custody on bail or own recognizance (subd. (b), Sec.
30 12022.1, Pen. C.).

31 (13) Taking, damaging, or destroying any property in
32 the commission or attempted commission of a felony with
33 the intent to cause that taking, damage, or destruction
34 when the loss exceeds one hundred fifty thousand dollars
35 (\$150,000) (para. (2), subd. (a), Sec. 12022.6, Pen. C.).

36 (14) Inducing, employing, or using a minor to commit
37 a drug offense involving heroin, cocaine, or cocaine base,
38 or unlawfully furnishing one of these controlled
39 substances to a minor, upon, or within 1,000 feet of, the
40 grounds of a school during school hours or whenever

1 minors are using the facility (para. (2), subd. (a), Sec.
2 11353.1, H.& S.C.).

3 (15) Inducing another person to commit a drug
4 offense as part of the drug transaction for which the
5 defendant is convicted when the value of the controlled
6 substance involved exceeds two million dollars
7 (\$2,000,000) (para. (2), subd. (a), Sec. 11356.5, H.& S.C.).

8 (16) Manufacturing, compounding, converting,
9 producing, deriving, processing, or preparing
10 methamphetamine or phencyclidine (PCP), or
11 attempting to commit any of those acts, or possessing
12 specified combinations of substances with the intent to
13 manufacture either methamphetamine or phencyclidine
14 (PCP), when the commission or attempted commission
15 of the crime occurs in a structure where any child under
16 16 years of age is present (subd. (a), Sec. 11379.7, H.&
17 S.C.).

18 (17) Using a minor to commit a drug offense involving
19 phencyclidine (PCP), methamphetamine, or lysergic
20 acid diethylamide (LSD), or unlawfully furnishing one of
21 these controlled substances to a minor, upon, or within
22 1,000 feet of, the grounds of a school during school hours
23 or whenever minors are using the facility (para. (2), subd.
24 (a), Sec. 11380.1, H.& S.C.).

25 (18) Prior felony conviction of any specified insurance
26 fraud offense with a current conviction of making false or
27 fraudulent statements concerning a workers'
28 compensation claim (subd. (c), Sec. 1871.4, Ins. C.).

29 (19) Prior felony conviction of making or causing to be
30 made any knowingly false or fraudulent statement of any
31 fact material to the determination of the premium, rate,
32 or cost of any policy of workers' compensation insurance
33 for the purpose of reducing the premium, rate, or cost of
34 the insurance with a current conviction of the same
35 offense (subd. (b), Sec. 11760, Ins. C.).

36 (20) Prior felony conviction of making or causing to be
37 made any knowingly false or fraudulent statement of any
38 fact material to the determination of the premium, rate,
39 or cost of any policy of workers' compensation insurance
40 issued or administered by the State Compensation

1 Insurance Fund for the purpose of reducing the
2 premium, rate, or cost of the insurance with a current
3 conviction of the same offense (subd. (b), Sec. 11880, Ins.
4 C.).

5 (21) Fraudulently appropriating food stamps,
6 electronically transferred benefits, or authorizations to
7 participate in the federal Food Stamp Program entrusted
8 to a public employee, or knowingly using, transferring,
9 selling, purchasing, or possessing, any of the same in an
10 unauthorized manner, when the offense is committed by
11 means of an electronic transfer of benefits in an amount
12 exceeding one hundred fifty thousand dollars (\$150,000),
13 but less than one million dollars (\$1,000,000) (subpara.
14 (B), para. (1), subd. (h), Sec. 10980, W.& I.C.).

15 (e) The provisions listed in this subdivision imposing
16 a sentence enhancement of two, three, or four years'
17 imprisonment in the state prison may be referenced as
18 Schedule E.

19 (1) Commission of a felony for the benefit of, at the
20 direction of, or in association with any criminal street
21 gang, with the specific intent to promote, further, or assist
22 in any criminal conduct by gang members, and on the
23 grounds of, or within 1,000 feet of, a school during school
24 hours or when minors are using the facility (para. (2),
25 subd. (b), Sec. 186.22, Pen. C.).

26 (2) Acting in concert with another person or aiding or
27 abetting another person in committing or attempting to
28 commit a felony hate crime (subd. (c), Sec. 422.75, Pen.
29 C.).

30 (3) Carrying a loaded or unloaded firearm together
31 with a detachable shotgun magazine, a detachable pistol
32 magazine, a detachable magazine, or a belt-feeding
33 device during the commission or attempted commission
34 of any felony street gang crime (subd. (b), Sec. 12021.5,
35 Pen. C.).

36 (f) The provisions listed in this subdivision imposing a
37 sentence enhancement of two, three, or five years'
38 imprisonment in the state prison may be referenced as
39 Schedule F.

1 (1) Commission of two or more related felonies, a
2 material element of which is fraud or embezzlement,
3 which involve a pattern of related felony conduct,
4 involving the taking of more than five hundred thousand
5 dollars (\$500,000) (para. (2), subd. (a), Sec. 186.11, Pen.
6 C.).

7 (g) The provisions listed in this subdivision imposing
8 a sentence enhancement of three years' imprisonment in
9 the state prison may be referenced as Schedule G.

10 (1) Money laundering when the value of transactions
11 exceeds one million dollars (\$1,000,000), but is less than
12 two million five hundred thousand dollars (\$2,500,000)
13 (subpara. (C), para. (1), subd. (c), Sec. 186.10, Pen. C.).

14 (2) Commission of a felony for the benefit of, at the
15 direction of, or in association with any criminal street
16 gang, with the specific intent to promote, further, or assist
17 in any criminal conduct by gang members, if also
18 convicted of a felony violation of witness or victim
19 intimidation involving a credible threat of violence or
20 death made to the witness or victim of a violent felony for
21 the purpose of preventing or dissuading the witness or
22 victim from attending or giving testimony at any trial for
23 a violent felony (para. (5), subd. (b), Sec. 186.22, Pen. C.).

24 (3) Willfully mingling any poison or harmful substance
25 which may cause death if ingested, or which causes the
26 infliction of great bodily injury on any person, with any
27 food, drink, medicine, or pharmaceutical product or
28 willfully placing such poison or harmful substance in any
29 spring, well, reservoir, or public water supply (subd. (a),
30 Sec. 347, Pen. C.).

31 (4) Causing great bodily injury by willfully causing or
32 permitting any elder or dependent adult to suffer, or
33 inflicting pain or mental suffering upon, or endangering
34 the health of, an elder or dependent adult when the
35 victim is under 70 years of age (subpara. (A), para. (2),
36 subd. (b), Sec. 368, Pen. C.).

37 (5) Maliciously driving or placing, in any tree, saw-log,
38 shingle-bolt, or other wood, any iron, steel, ceramic, or
39 other substance sufficiently hard to injure saws and

1 causing bodily injury to another person other than an
2 accomplice (subd. (b), Sec. 593a, Pen. C.).

3 (6) Prior prison term for violent felony with current
4 violent felony conviction (subd. (a), Sec. 667.5, Pen. C.).

5 (7) Commission of any specified felony sex offense by
6 a primary care provider in a day care facility against a
7 minor entrusted to his or her care while voluntarily acting
8 in concert with another (subd. (b), Sec. 674, Pen. C.).

9 (8) Commission or attempted commission of a felony
10 while armed with an assault weapon or a machinegun
11 (para. (2), subd. (a), Sec. 12022, Pen. C.).

12 (9) Taking, damaging, or destroying any property in
13 the commission or attempted commission of a felony with
14 the intent to cause that taking, damage, or destruction
15 when the loss exceeds one million dollars (\$1,000,000)
16 (para. (3), subd. (a), Sec. 12022.6, Pen. C.).

17 (10) Personally inflicting great bodily injury on any
18 person other than an accomplice in the commission or
19 attempted commission of a felony (subd. (a), Sec. 12022.7,
20 Pen. C.).

21 (11) Administering by injection, inhalation, ingestion,
22 or any other means, any specified controlled substance
23 against the victim's will by means of force, violence, or
24 fear of immediate and unlawful bodily injury to the
25 victim or another person for the purpose of committing
26 a felony (Sec. 12022.75, Pen. C.).

27 (12) Commission of any specified sex offense with
28 knowledge that the defendant has acquired immune
29 deficiency syndrome (AIDS) or with the knowledge that
30 he or she carries antibodies of the human
31 immunodeficiency virus at the time of the commission of
32 the offense (Sec. 12022.85, Pen. C.).

33 (13) Inducing another person to commit a drug
34 offense as part of the drug transaction for which the
35 defendant is convicted when the value of the controlled
36 substance involved exceeds five million dollars
37 (\$5,000,000) (para. (3), subd. (a), Sec. 11356.5, H.& S.C.).

38 (14) Prior conviction of any specified drug offense
39 with current conviction of any specified drug offense
40 (subds. (a), (b), and (c), Sec. 11370.2, H.& S.C.).

1 (15) Commission of any specified drug offense
2 involving a substance containing heroin, cocaine base,
3 cocaine, methamphetamine, amphetamine, or
4 phencyclidine (PCP), when the substance exceeds one
5 kilogram or 30 liters (para. (1), subd. (a), and para. (1),
6 subd. (b), Sec. 11370.4, H.& S.C.).

7 (16) Manufacturing, compounding, converting,
8 producing, deriving, processing, or preparing any
9 substance containing amphetamine, methamphetamine,
10 or phencyclidine (PCP) or its analogs or precursors, or
11 attempting to commit any of those acts, when the
12 substance exceeds three gallons or one pound (para. (1),
13 subd. (a), Sec. 11379.8, H.& S.C.).

14 (17) Four or more prior convictions of specified
15 alcohol-related vehicle offenses with current conviction
16 of driving under the influence and causing great bodily
17 injury (subd. (c), Sec. 23190, Veh. C.).

18 (18) Fraudulently appropriating food stamps,
19 electronically transferred benefits, or authorizations to
20 participate in the federal Food Stamp Program entrusted
21 to a public employee, or knowingly using, transferring,
22 selling, purchasing, or possessing, any of the same in an
23 unauthorized manner, when the offense is committed by
24 means of an electronic transfer of benefits in an amount
25 exceeding one million dollars (\$1,000,000), but less than
26 two million five hundred thousand dollars (\$2,500,000)
27 (subpara. (C), para. (1), subd. (h), Sec. 10980, W.& I.C.).

28 (h) The provisions listed in this subdivision imposing
29 a sentence enhancement of three, four, or five years'
30 imprisonment in the state prison may be referenced as
31 Schedule H.

32 (1) Commission of felony arson with prior conviction
33 of arson or unlawfully starting a fire, or causing great
34 bodily injury to a firefighter, peace officer, other
35 emergency personnel, or multiple victims, or causing the
36 burning of multiple structures, or using an accelerator or
37 ignition delay device (subd. (a), Sec. 451.1, Pen. C.).

38 (2) Commission or attempted commission of any
39 specified drug offense while personally armed with a
40 firearm (subd. (c), Sec. 12022, Pen. C.).

(3) Personally inflicting great bodily injury under circumstances involving domestic violence in the commission or attempted commission of a felony (subd. (d), Sec. 12022.7, Pen. C.).

(4) Commission of any specified drug offense involving cocaine base, heroin, or methamphetamine, or a conspiracy to commit any of those offenses, upon the grounds of, or within 1,000 feet of, a school during school hours or when minors are using the facility (subd. (b), Sec. 11353.6, H.& S.C.).

(5) Commission of any specified drug offense involving cocaine base, heroin, or methamphetamine, or a conspiracy to violate any of those offenses, involving a minor who is at least four years younger than the defendant (subd. (c), Sec. 11353.6, H.& S.C.).

(i) The provisions listed in this subdivision imposing a sentence enhancement of 3, 4, or 10 years' imprisonment in the state prison may be referenced as Schedule I.

(1) Commission or attempted commission of any felony while armed with a firearm and in the immediate possession of ammunition for the firearm designed primarily to penetrate metal or armor (subd. (a), Sec. 12022.2, Pen. C.).

(2) Commission or attempted commission of any specified sex offense while using a firearm or deadly weapon (subd. (a), Sec. 12022.3, Pen. C.).

(3) Commission or attempted commission of a felony while personally using a firearm (para. (1), subd. (a), Sec. 12022.5, Pen. C.).

(4) Commission or attempted commission of any specified drug offense while personally using a firearm (subd. (c), Sec. 12022.5, Pen. C.).

(j) The provisions listed in this subdivision imposing a sentence enhancement of four years' imprisonment in the state prison may be referenced as Schedule J.

(1) Money laundering when the value of transactions exceeds two million five hundred thousand dollars (\$2,500,000) (subpara. (D), para. (1), subd. (c), Sec. 186.10, Pen. C.).

1 (2) Prior conviction of willfully inflicting upon a child
2 any cruel or inhuman corporal punishment or injury
3 resulting in a traumatic condition with current conviction
4 of that offense (subd. (b), Sec. 273d, Pen. C.).

5 (3) Taking, damaging, or destroying any property in
6 the commission or attempted commission of a felony with
7 the intent to cause that taking, damage, or destruction
8 when the loss exceeds two million five hundred thousand
9 dollars (\$2,500,000) (para. (4), subd. (a), Sec. 12022.6,
10 Pen. C.).

11 (4) Personally, willfully, and maliciously discharging a
12 firearm from a motor vehicle at another person other
13 than an occupant of a motor vehicle and causing a victim
14 to suffer paralysis or paraparesis of a major body part
15 (para. (1), subd. (b), Sec. 12022.9, Pen. C.).

16 (5) Personally, willfully, and maliciously discharging a
17 firearm from a motor vehicle at another occupied motor
18 vehicle and causing a victim to suffer paralysis or
19 paraparesis of a major body part (para. (2), subd. (b), Sec.
20 12022.9, Pen. C.).

21 (6) Willfully causing or permitting any child to suffer,
22 or inflicting on the child unjustifiable physical pain or
23 injury that results in death under circumstances or
24 conditions likely to produce great bodily harm or death,
25 or, having the care or custody of any child, willfully
26 causing or permitting that child to be injured or harmed
27 under circumstances likely to produce great bodily harm
28 or death, when that injury or harm results in death (Sec.
29 12022.95, Pen. C.).

30 (7) Fraudulently appropriating food stamps,
31 electronically transferred benefits, or authorizations to
32 participate in the federal Food Stamp Program entrusted
33 to a public employee, or knowingly using, transferring,
34 selling, purchasing, or possessing, any of the same in an
35 unauthorized manner, when the offense is committed by
36 means of an electronic transfer of benefits in an amount
37 exceeding two million five hundred thousand dollars
38 (\$2,500,000) (subpara. (D), para. (1), subd. (h), Sec.
39 10980, W.& I.C.).

(k) The provisions listed in this subdivision imposing a sentence enhancement of 4, 5, or 10 years' imprisonment in the state prison may be referenced as Schedule K.

(1) Commission or attempted commission of a felony while personally using a firearm with prior conviction of carjacking or attempted carjacking (para. (2), subd. (a), Sec. 12022.5, Pen. C.).

(l) The provisions listed in this subdivision imposing a sentence enhancement of five years' imprisonment in the state prison may be referenced as Schedule L.

(1) Using sex offender registration information to commit a felony (subd. (q), Sec. 290, and para. (1), subd. (b), Sec. 290.4, Pen. C.).

(2) Causing great bodily injury by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is 70 years of age or older (subpara. (B), para. (2), subd. (b), Sec. 368, Pen. C.).

(3) Causing death by willfully causing or permitting any elder or dependent adult to suffer, or inflicting pain or mental suffering upon, or endangering the health of, an elder or dependent adult when the victim is under 70 years of age (subpara. (A), para. (3), subd. (b), Sec. 368, Pen. C.).

(4) Two prior felony convictions of knowingly causing or participating in a vehicular collision or accident for the purpose of presenting any false or fraudulent claim with current conviction of the same (subd. (f), Sec. 550, Pen. C.).

(5) Prior conviction of a serious felony with current conviction of a serious felony (para. (1), subd. (a), Sec. 667, Pen. C.).

(6) Prior conviction of any specified sex offense with current conviction of lewd and lascivious acts with a child under 14 years of age (subd. (a), Sec. 667.51, Pen. C.).

(7) Prior conviction of any specified sex offense with current conviction of any of those sex offenses (subd. (a), Sec. 667.6, Pen. C.).

1 (8) Kidnapping or carrying away any child under 14
2 years of age with the intent to permanently deprive the
3 parent or legal guardian custody of that child (Sec. 667.85,
4 Pen. C.).

5 (9) Personally inflicting great bodily injury on any
6 person other than an accomplice in the commission or
7 attempted commission of a felony that causes the victim
8 to become comatose due to a brain injury or to suffer
9 paralysis of a permanent nature (subd. (b), Sec. 12022.7,
10 Pen. C.).

11 (10) Personally inflicting great bodily injury on
12 another person who is 70 years of age or older other than
13 an accomplice in the commission or attempted
14 commission of a felony (subd. (c), Sec. 12022.7, Pen. C.).

15 (11) Inflicting great bodily injury on any victim in the
16 commission or attempted commission of any specified sex
17 offense (Sec. 12022.8, Pen. C.).

18 (12) Personally and intentionally inflicting injury
19 upon a pregnant woman during the commission or
20 attempted commission of a felony that results in the
21 termination of the pregnancy when the defendant knew
22 or reasonably should have known that the victim was
23 pregnant (subd. (a), Sec. 12022.9, Pen. C.).

24 (13) Using information disclosed to the licensee of a
25 community care facility by a prospective client regarding
26 his or her status as a sex offender to commit a felony
27 (subd. (c), Sec. 1522.01, H.& S.C.).

28 (14) Commission of any specified drug offense
29 involving a substance containing heroin, cocaine base,
30 cocaine, methamphetamine, amphetamine, or
31 phencyclidine (PCP), when the substance exceeds 4
32 kilograms or 100 liters (para. (2), subd. (a), and para. (2),
33 subd. (b), Sec. 11370.4, H.& S.C.).

34 (15) Manufacturing, compounding, converting,
35 producing, deriving, processing, or preparing
36 methamphetamine or phencyclidine (PCP), or
37 attempting to commit any of those acts, or possessing
38 specified combinations of substances with the intent to
39 manufacture either methamphetamine or phencyclidine
40 (PCP), when the commission of the crime causes any

1 child under 16 years of age to suffer great bodily injury
2 (subd. (b), Sec. 11379.7, H.& S.C.).

3 (16) Manufacturing, compounding, converting,
4 producing, deriving, processing, or preparing any
5 substance containing amphetamine, methamphetamine,
6 or phencyclidine (PCP) or its analogs or precursors, or
7 attempting to commit any of those acts, when the
8 substance exceeds 10 gallons or three pounds (para. (2),
9 subd. (a), Sec. 11379.8, H.& S.C.).

10 (17) Fleeing the scene of the crime after commission
11 of vehicular manslaughter (subd. (c), Sec. 20001, Veh.
12 C.).

13 (m) The provisions listed in this subdivision imposing
14 a sentence enhancement of 5, 6, or 10 years'
15 imprisonment in the state prison may be referenced as
16 Schedule M.

17 (1) Discharging a firearm at an occupied motor
18 vehicle in the commission or attempted commission of a
19 felony which caused great bodily injury or death to
20 another person (para. (1), subd. (b), Sec. 12022.5, Pen.
21 C.).

22 (2) Commission or attempted commission of a felony
23 while personally using an assault weapon or a
24 machinegun (para. (2), subd. (b), Sec. 12022.5, Pen. C.).

25 (3) Discharging a firearm from a motor vehicle in the
26 commission or attempted commission of a felony with the
27 intent to inflict great bodily injury or death and causing
28 great bodily injury or death (Sec. 12022.55, Pen. C.).

29 (n) The provisions listed in this subdivision imposing
30 a sentence enhancement of seven years' imprisonment in
31 the state prison may be referenced as Schedule N.

32 (1) Causing death by willfully causing or permitting
33 any elder or dependent adult to suffer, or inflicting pain
34 or mental suffering upon, or endangering the health of,
35 an elder or dependent adult when the victim is 70 years
36 of age or older (subpara. (B), para. (3), subd. (b), Sec.
37 368, Pen. C.).

38 (o) The provisions listed in this subdivision imposing
39 a sentence enhancement of nine years' imprisonment in
40 the state prison may be referenced as Schedule O.

1 (1) Kidnapping victim for purpose of committing any
2 specified felony sex offense (subd. (a), Sec. 667.8, Pen.
3 C.).

4 (p) The provisions listed in this subdivision imposing
5 a sentence enhancement of 10 years' imprisonment in the
6 state prison may be referenced as Schedule P.

7 (1) Two or more prior prison terms for any specified
8 sex offense with current conviction of any of those sex
9 offenses (subd. (b), Sec. 667.6, Pen. C.).

10 (2) Commission or attempted commission of any
11 specified felony offense while personally using a firearm
12 (subd. (b), Sec. 12022.53, Pen. C.).

13 (3) Commission of any specified drug offense
14 involving a substance containing heroin, cocaine base,
15 cocaine, methamphetamine, amphetamine, or
16 phencyclidine (PCP), when the substance exceeds 10
17 kilograms or 200 liters (para. (3), subd. (a), and para. (3),
18 subd. (b), Sec. 11370.4, H.& S.C.).

19 (4) Manufacturing, compounding, converting,
20 producing, deriving, processing, or preparing any
21 substance containing amphetamine, methamphetamine,
22 or phencyclidine (PCP) or its analogs or precursors, or
23 attempting to commit any of those acts, when the
24 substance exceeds 25 gallons or 10 pounds (para. (3),
25 subd. (a), Sec. 11379.8, H.& S.C.).

26 (q) The provisions listed in this subdivision imposing
27 a sentence enhancement of 15 years' imprisonment in the
28 state prison may be referenced as Schedule Q.

29 (1) Kidnapping victim under 14 years of age for
30 purpose of committing any specified felony sex offense
31 (subd. (b), Sec. 667.8, Pen. C.).

32 (2) Commission of any specified drug offense
33 involving a substance containing heroin, cocaine base,
34 cocaine, methamphetamine, amphetamine, or
35 phencyclidine (PCP), when the substance exceeds 20
36 kilograms or 400 liters (para. (4), subd. (a), and para. (4),
37 subd. (b), Sec. 11370.4, H.& S.C.).

38 (3) Manufacturing, compounding, converting,
39 producing, deriving, processing, or preparing any
40 substance containing amphetamine, methamphetamine,

1 or phencyclidine (PCP) or its analogs or precursors, or
2 attempting to commit any of those acts, when the
3 substance exceeds 105 gallons or 44 pounds (para. (4),
4 subd. (a), Sec. 11379.8, H.& S.C.).

5 (r) The provisions listed in this subdivision imposing a
6 sentence enhancement of 20 years' imprisonment in the
7 state prison may be referenced as Schedule R.

8 (1) Intentionally and personally discharging a firearm
9 in the commission or attempted commission of any
10 specified felony offense (subd. (c), Sec. 12022.53, Pen.
11 C.).

12 (2) Commission of any specified drug offense
13 involving a substance containing heroin, cocaine base, or
14 cocaine, when the substance exceeds 40 kilograms (para.
15 (5), subd. (a), Sec. 11370.4, H.& S.C.).

16 (s) The provisions listed in this subdivision imposing a
17 sentence enhancement of 25 years' imprisonment in the
18 state prison may be referenced as Schedule S.

19 (1) Commission of any specified drug offense
20 involving a substance containing heroin, cocaine base, or
21 cocaine, when the substance exceeds 80 kilograms (para.
22 (6), subd. (a), Sec. 11370.4, H.& S.C.).

23 (t) The provisions listed in this subdivision imposing a
24 sentence enhancement of 25 years to life imprisonment
25 in the state prison may be referenced as Schedule T.

26 (1) Intentionally and personally discharging a firearm
27 in the commission or attempted commission of any
28 specified felony offense and proximately causing great
29 bodily injury to any person other than an accomplice
30 (subd. (d), Sec. 12022.53, Pen. C.).

31 SEC. 8. Section 667.70 of the Penal Code is amended
32 to read:

33 667.70. Any person who is convicted of murder, which
34 was committed prior to June 3, 1998, and sentenced
35 pursuant to paragraph (1) of subdivision (a) of Section
36 667.7, shall be eligible only for credit pursuant to
37 subdivisions (a), (b), and (c) of Section 2931.

38 SEC. 9. Section 667.72 of the Penal Code is repealed.

39 SEC. 10. Section 803 of the Penal Code is amended to
40 read:

1 803. (a) Except as provided in this section, a
2 limitation of time prescribed in this chapter is not tolled
3 or extended for any reason.

4 (b) No time during which prosecution of the same
5 person for the same conduct is pending in a court of this
6 state is a part of a limitation of time prescribed in this
7 chapter.

8 (c) A limitation of time prescribed in this chapter does
9 not commence to run until the discovery of an offense
10 described in this subdivision. This subdivision applies to
11 an offense punishable by imprisonment in the state
12 prison, a material element of which is fraud or breach of
13 a fiduciary obligation, the commission of the crimes of
14 theft or embezzlement upon an elder or dependent
15 adult, or the basis of which is misconduct in office by a
16 public officer, employee, or appointee, including, but not
17 limited to, the following offenses:

18 (1) Grand theft of any type, forgery, falsification of
19 public records, or acceptance of a bribe by a public official
20 or a public employee.

21 (2) A violation of Section 72, 118, 118a, 132, or 134.

22 (3) A violation of Section 25540, of any type, or Section
23 25541 of the Corporations Code.

24 (4) A violation of Section 1090 or 27443 of the
25 Government Code.

26 (5) Felony welfare fraud or Medi-Cal fraud in violation
27 of Section 11483 or 14107 of the Welfare and Institutions
28 Code.

29 (6) Felony insurance fraud in violation of Section 548
30 or 550 of this code or former Section 1871.1, or Section
31 1871.4, of the Insurance Code.

32 (7) A violation of Section 580, 581, 582, 583, or 584 of the
33 Business and Professions Code.

34 (8) A violation of Section 22430 of the Business and
35 Professions Code.

36 (9) A violation of Section 10690 of the Health and
37 Safety Code.

38 (10) A violation of Section 529a.

39 (11) A violation of subdivision (d) or (e) of Section
40 368.

(d) If the defendant is out of the state when or after the offense is committed, the prosecution may be commenced as provided in Section 804 within the limitations of time prescribed by this chapter, and no time up to a maximum of three years during which the defendant is not within the state shall be a part of those limitations.

(e) A limitation of time prescribed in this chapter does not commence to run until the offense has been discovered, or could have reasonably been discovered, with regard to offenses under Division 7 (commencing with Section 13000) of the Water Code, under Chapter 6.5 (commencing with Section 25100) of, Chapter 6.7 (commencing with Section 25280) of, or Chapter 6.8 (commencing with Section 25300) of, Division 20 of, or Part 4 (commencing with Section 41500) of Division 26 of, the Health and Safety Code, or under Section 386.

(f) (1) Notwithstanding any other limitation of time described in this chapter, a criminal complaint may be filed within one year of the date of a report to a responsible adult or agency by a child under 18 years of age that the child is a victim of a crime described in Section 261, 286, 288, 288a, 288.5, 289, or 289.5.

(2) For purposes of this subdivision, a “responsible adult” or “agency” means a person or agency required to report pursuant to Section 11166. This subdivision applies only if both of the following occur:

(A) The limitation period specified in Section 800 or 801 has expired.

(B) The defendant has committed at least one violation of Section 261, 286, 288, 288a, 288.5, 289, or 289.5 against the same victim within the limitation period specified for that crime in either Section 800 or 801.

(3) (A) This subdivision applies to a cause of action arising before, on, or after January 1, 1990, the effective date of this subdivision, and it shall revive any cause of action barred by Section 800 or 801 if any of the following occurred or occurs:

1 (i) The complaint or indictment was filed on or before
2 January 1, 1997, and it was filed within the time period
3 specified in this subdivision.

4 (ii) The complaint or indictment is or was filed
5 subsequent to January 1, 1997, and it is or was filed within
6 the time period specified within this subdivision.

7 (iii) The victim made the report required by this
8 subdivision to a responsible adult or agency after January
9 1, 1990, and a complaint or indictment was not filed
10 within the time period specified in this subdivision, but a
11 complaint or indictment is filed no later than 180 days
12 after the date on which either a published opinion of the
13 California Supreme Court, deciding whether retroactive
14 application of this section is constitutional, becomes final
15 or the United States Supreme Court files an opinion
16 deciding the question of whether retroactive application
17 of this subdivision is constitutional, whichever occurs first.

18 (iv) The victim made the report required by this
19 subdivision to a responsible adult or agency after January
20 1, 1990, and a complaint or indictment was filed within the
21 time period specified in this subdivision, but the
22 indictment, complaint, or subsequently filed information
23 was dismissed, but a new complaint or indictment is or
24 was filed no later than 180 days after the date on which
25 either a published opinion of the California Supreme
26 Court, deciding whether retroactive application of this
27 section is constitutional, becomes final or the United
28 States Supreme Court files an opinion deciding the
29 question of whether retroactive application of this
30 subdivision is constitutional, whichever occurs first.

31 (B) (i) If the victim made the report required by this
32 subdivision to a responsible adult or agency after January
33 1, 1990, and a complaint or indictment was filed within the
34 time period specified in this subdivision, but the
35 indictment, complaint, or subsequently filed information
36 was dismissed, a new complaint or indictment may be
37 filed notwithstanding any other provision of law,
38 including, but not limited to, subdivision (c) of Section
39 871.5 and subdivision (b) of Section 1238.

1 (ii) An order dismissing an action filed under this
2 subdivision, which is entered or becomes effective at any
3 time prior to 180 days after the date on which either a
4 published opinion of the California Supreme Court,
5 deciding the question of whether retroactive application
6 of this section is constitutional, becomes final or the
7 United States Supreme Court files an opinion deciding
8 the question of whether retroactive application of this
9 subdivision is constitutional, whichever occurs first, shall
10 not be considered an order terminating an action within
11 the meaning of Section 1387.

12 (iii) Any ruling regarding the retroactivity of this
13 subdivision or its constitutionality made in the course of
14 the previous proceeding, including any review
15 proceeding, shall not be binding upon refiling.

16 (g) (1) Notwithstanding any other limitation of time
17 described in this chapter, a criminal complaint may be
18 filed within one year of the date of a report to a California
19 law enforcement agency by a person of any age alleging
20 that he or she, while under the age of 18 years, was the
21 victim of a crime described in Section 261, 286, 288, 288a,
22 288.5, 289, or 289.5.

23 (2) This subdivision applies only if both of the
24 following occur:

25 (A) The limitation period specified in Section 800 or
26 801 has expired.

27 (B) The crime involved substantial sexual conduct, as
28 described in subdivision (b) of Section 1203.066,
29 excluding masturbation that is not mutual, and there is
30 independent evidence that clearly and convincingly
31 corroborates the victim's allegation. No evidence may be
32 used to corroborate the victim's allegation that otherwise
33 would be inadmissible during trial. Independent
34 evidence does not include the opinions of mental health
35 professionals.

36 (3) (A) This subdivision applies to a cause of action
37 arising before, on, or after January 1, 1994, the effective
38 date of this subdivision, and it shall revive any cause of
39 action barred by Section 800 or 801 if any of the following
40 occurred or occurs:



1 (i) The complaint or indictment was filed on or before
2 January 1, 1997, and it was filed within the time period
3 specified in this subdivision.

4 (ii) The complaint or indictment is or was filed
5 subsequent to January 1, 1997, and it is or was filed within
6 the time period specified within this subdivision.

7 (iii) The victim made the report required by this
8 subdivision to a law enforcement agency after January 1,
9 1994, and a complaint or indictment was not filed within
10 the time period specified in this subdivision, but a
11 complaint or indictment is filed no later than 180 days
12 after the date on which either a published opinion of the
13 California Supreme Court, deciding the question of
14 whether retroactive application of this subdivision is
15 constitutional, becomes final or the United States
16 Supreme Court files an opinion deciding the question of
17 whether retroactive application of this subdivision is
18 constitutional, whichever occurs first.

19 (iv) The victim made the report required by this
20 subdivision to a law enforcement agency after January 1,
21 1994, and a complaint or indictment was filed within the
22 time period specified in this subdivision, but the
23 indictment, complaint, or subsequently filed information
24 was dismissed, but a new complaint or indictment is filed
25 no later than 180 days after the date on which either a
26 published opinion of the California Supreme Court,
27 deciding the question of whether retroactive application
28 of this subdivision is constitutional, becomes final or the
29 United States Supreme Court files an opinion deciding
30 the question of whether retroactive application of this
31 subdivision is constitutional, whichever occurs first.

32 (B) (i) If the victim made the report required by this
33 subdivision to a law enforcement agency after January 1,
34 1994, and a complaint or indictment was filed within the
35 time period specified in this subdivision, but the
36 indictment, complaint, or subsequently filed information
37 was dismissed, a new complaint or indictment may be
38 filed notwithstanding any other provision of law,
39 including, but not limited to, subdivision (c) of Section
40 871.5 and subdivision (b) of Section 1238.

1 (ii) An order dismissing an action filed under this
2 subdivision, which is entered or becomes effective at any
3 time prior to 180 days after the date on which either a
4 published opinion of the California Supreme Court,
5 deciding the question of whether retroactive application
6 of this section is constitutional, becomes final or the
7 United States Supreme Court files an opinion deciding
8 the question of whether retroactive application of this
9 subdivision is constitutional, whichever occurs first, shall
10 not be considered an order terminating an action within
11 the meaning of Section 1387.

12 (iii) Any ruling regarding the retroactivity of this
13 subdivision or its constitutionality made in the course of
14 the previous proceeding, by any trial court or any
15 intermediate appellate court, shall not be binding upon
16 refiling.

17 ~~SEC. 11. Section 1170.1 of the Penal Code is amended~~
18 ~~to read:~~

19 ~~1170.1. (a) Except as otherwise provided by law, and~~
20 ~~subject to Section 654, when any person is convicted of~~
21 ~~two or more felonies, whether in the same proceeding or~~
22 ~~court or in different proceedings or courts, and whether~~
23 ~~by judgment rendered by the same or by a different~~
24 ~~court, and a consecutive term of imprisonment is~~
25 ~~imposed under Sections 669 and 1170, the aggregate term~~
26 ~~of imprisonment for all these convictions shall be the sum~~
27 ~~of the principal term, the subordinate term, and any~~
28 ~~additional term imposed for applicable enhancements for~~
29 ~~prior convictions, prior prison terms, and Section 12022.1.~~
30 ~~The principal term shall consist of the greatest term of~~
31 ~~imprisonment imposed by the court for any of the crimes,~~
32 ~~including any term imposed for applicable specific~~
33 ~~enhancements. The subordinate term for each~~
34 ~~consecutive offense that is not a "violent felony," as~~
35 ~~defined in subdivision (c) of Section 667.5, shall consist of~~
36 ~~one-third of the middle term of imprisonment prescribed~~
37 ~~for each other felony conviction for an offense that is not~~
38 ~~a violent felony for which a consecutive term of~~
39 ~~imprisonment is imposed, and shall exclude any specific~~
40 ~~enhancements. The subordinate term for each~~

1 ~~consecutive offense that is a “violent felony,” as defined~~
2 ~~in any paragraph of subdivision (c) of Section 667.5, shall~~
3 ~~consist of one-third of the middle term of imprisonment~~
4 ~~prescribed for each other felony conviction for an offense~~
5 ~~that is a violent felony for which a consecutive term of~~
6 ~~imprisonment is imposed, and shall include one-third of~~
7 ~~the term imposed for any specific enhancements~~
8 ~~applicable to those subordinate offenses.~~

9 ~~(b) When a consecutive term of imprisonment is~~
10 ~~imposed under Sections 669 and 1170 for two or more~~
11 ~~convictions for kidnapping, as defined in Section 207,~~
12 ~~involving separate victims, the aggregate term shall be~~
13 ~~calculated as provided in subdivision (a), except that the~~
14 ~~subordinate term for each subordinate kidnapping~~
15 ~~conviction shall consist of the full middle term for each~~
16 ~~kidnapping conviction for which a consecutive term of~~
17 ~~imprisonment is imposed and shall include the full term~~
18 ~~imposed for specific enhancements applicable to those~~
19 ~~subordinate offenses.~~

20 ~~(c) In the case of any person convicted of one or more~~
21 ~~felonies committed while the person is confined in a state~~
22 ~~prison or is subject to reimprisonment for escape from~~
23 ~~eustody and the law either requires the terms to be served~~
24 ~~consecutively or the court imposes consecutive terms, the~~
25 ~~term of imprisonment for all the convictions that the~~
26 ~~person is required to serve consecutively shall commence~~
27 ~~from the time the person would otherwise have been~~
28 ~~released from prison. If the new offenses are consecutive~~
29 ~~with each other, the principal and subordinate terms shall~~
30 ~~be calculated as provided in subdivision (a). This~~
31 ~~subdivision shall be applicable in cases of convictions of~~
32 ~~more than one offense in different proceedings, and~~
33 ~~convictions of more than one offense in the same or~~
34 ~~different proceedings.~~

35 ~~(d) When the court imposes a prison sentence for a~~
36 ~~felony pursuant to Section 1170, the court shall also~~
37 ~~impose the additional terms provided for any applicable~~
38 ~~enhancements. The court shall also impose any other~~
39 ~~additional term that the court determines in its discretion~~
40 ~~or as required by law shall run consecutive to the term~~

~~imposed under Section 1170. In considering the imposition of the additional term, the court shall apply the sentencing rules of the Judicial Council.~~

~~(e) All enhancements shall be alleged in the accusatory pleading and either admitted by the defendant in open court or found to be true by the trier of fact.~~

~~(f) When two or more enhancements may be imposed for being armed with or using a dangerous or deadly weapon or a firearm in the commission of a single offense, only the greatest of those enhancements shall be imposed for that offense. This subdivision shall not limit the imposition of any other enhancements applicable to that offense, including an enhancement for the infliction of great bodily injury.~~

~~(g) When two or more enhancements may be imposed for the infliction of great bodily injury in the commission of a single offense, only the greatest of those enhancements shall be imposed for that offense. This subdivision shall not limit the imposition of any other enhancements applicable to that offense, including an enhancement for being armed with or using a dangerous or deadly weapon or a firearm.~~

~~(h) For any violation of an offense specified in Section 667.6, the number of enhancements that may be imposed shall not be limited, regardless of whether the enhancements are pursuant to this section, Section 667.6, or some other section of law. Each of the enhancements shall be a full and separately served enhancement.~~

~~SEC. 12.~~

~~SEC. 11.~~ Section 1170.11 of the Penal Code is amended to read:

~~1170.11. As used in Section 1170.1, the term “specific enhancement” includes, but is not limited to, the enhancements provided in Sections 186.10, 186.11, 186.22, 273.4, 289.5, 290, 290.4, 347, and 368, subdivisions (a), (b), and (c) of Section 422.75, paragraphs (2), (3), (4), and (5) of subdivision (a) of Section 451.1, paragraphs (2), (3), and (4) of subdivision (a) of Section 452.1, subdivision (g) of Section 550, Sections 593a, 600, 667.8, 667.85, 667.9,~~

667.10, 667.15, 667.16, 667.17, 674, 12021.5, 12022, 12022.2, 12022.3, 12022.4, 12022.5, 12022.53, 12022.55, 12022.6, 12022.7, 12022.75, 12022.8, 12022.85, 12022.9, 12022.95, 12072, and 12280 of this code, and in Sections 1522.01 and 11353.1, subdivision (b) of Section 11353.4, Sections 11353.6, 11356.5, 11370.4, 11379.7, 11379.8, 11379.9, 11380.1, 11380.5, 25189.5, and 25189.7 of the Health and Safety Code, and in Sections 20001 and 23558 of the Vehicle Code, and in Section 10980 of the Welfare and Institutions Code.

~~SEC. 13.~~

SEC. 12. Section 1192.8 of the Penal Code is amended to read:

1192.8. (a) For purposes of subdivision (c) of Section 1192.7, “serious felony” also means any violation of Section 191.5, paragraph (1) or (3) of subdivision (c) of Section 192, paragraph (a) or (c) of Section 192.5 of this code, or Section 2800.3, subdivision (b) of Section 23104, or Section 23153 of the Vehicle Code, when any of these offenses involve the personal infliction of great bodily injury on any person other than an accomplice, or the personal use of a dangerous or deadly weapon, within the meaning of paragraph (8) or (23) of subdivision (c) of Section 1192.7.

(b) It is the intent of the Legislature, in enacting subdivision (a), to codify the court decisions of *People v. Gonzales*, 29 Cal. App. 4th 1684, and *People v. Bow*, 13 Cal. App. 4th 1551, and to clarify that the crimes specified in subdivision (a) have always been, and continue to be, serious felonies within the meaning of subdivision (c) of Section 1192.7.

~~SEC. 14.~~

SEC. 13. Section 1203.049 of the Penal Code is amended to read:

1203.049. (a) Except in unusual cases where the interest of justice would best be served if the person is granted probation, probation shall not be granted to any person who violates subdivision (f) or (g) of Section 10980 of the Welfare and Institutions Code, when the violation has been committed by means of the electronic transfer

1 of food stamp benefits, and the amount of the
2 electronically transferred food stamp benefits exceeds
3 one hundred thousand dollars (\$100,000).

4 (b) The fact that the violation was committed by
5 means of an electronic transfer of food stamp benefits and
6 the amount of the electronically transferred food stamp
7 benefits exceeds one hundred thousand dollars
8 (\$100,000) shall be alleged in the accusatory pleading,
9 and either admitted by the defendant in open court, or
10 found to be true by the jury trying the issue of guilt or by
11 the court where guilt is established by a plea of guilty or
12 nolo contendere or by trial by the court sitting without a
13 jury.

14 (c) If probation is granted, the court shall specify on
15 the record and shall enter on the minutes the
16 circumstances indicating that the interests of justice
17 would best be served by that disposition of the case.

18 ~~SEC. 15. Section 1385 of the Penal Code is amended~~
19 ~~to read:~~

20 ~~1385. (a) The judge or magistrate may, either of his~~
21 ~~or her own motion or upon the application of the~~
22 ~~prosecuting attorney, and in furtherance of justice, order~~
23 ~~an action to be dismissed. The reasons for the dismissal~~
24 ~~must be set forth in an order entered upon the minutes.~~
25 ~~No dismissal shall be made for any cause which would be~~
26 ~~ground of demurrer to the accusatory pleading.~~

27 ~~(b) This section does not authorize a judge to strike~~
28 ~~any prior conviction of a serious felony for purposes of~~
29 ~~enhancement of a sentence under Section 667.~~

30 ~~(c) (1) If the court has the authority pursuant to~~
31 ~~subdivision (a) to strike or dismiss an enhancement, the~~
32 ~~court may instead strike the additional punishment for~~
33 ~~enhancement in the furtherance of justice in compliance~~
34 ~~with subdivision (a).~~

35 ~~(2) This subdivision does not authorize the court to~~
36 ~~strike the additional punishment for any enhancement~~
37 ~~that cannot be stricken or dismissed pursuant to~~
38 ~~subdivision (a).~~

39 ~~SEC. 16.~~

1 *SEC. 14.* Section 23558 of the Vehicle Code is
2 amended to read:

3 23558. Any person who proximately causes bodily
4 injury or death to more than one victim in any one
5 instance of driving in violation of Section 23153 of this
6 code or in violation of Section 191.5 of, or paragraph (3)
7 of subdivision (c) of Section 192 of, the Penal Code, shall,
8 upon a felony conviction, and notwithstanding
9 subdivision (g) of Section 1170.1 of the Penal Code,
10 receive an enhancement of one year in the state prison
11 for each additional injured victim. The enhanced
12 sentence provided for in this section shall not be imposed
13 unless the fact of the bodily injury to each additional
14 victim is charged in the accusatory pleading and
15 admitted or found to be true by the trier of fact. The
16 maximum number of one year enhancements which may
17 be imposed pursuant to this section is three.

18 Notwithstanding any other provision of law, the court
19 may strike the enhancements provided in this section if
20 it determines that there are circumstances in mitigation
21 of the additional punishment and states on the record its
22 reasons for striking the additional punishment.

23 ~~SEC. 17.~~

24 *SEC. 15.* The amendments to Sections 25189.5 and
25 25189.7 of the Health and Safety Code, in Sections 1 and
26 3 of this act, respectively, that change the word “may” to
27 “shall,” are not intended to alter the existing authority
28 and discretion of the court to strike those enhancements
29 or to strike the additional punishment for those
30 enhancements pursuant to Section 1385 of the Penal
31 Code.

32 ~~SEC. 18.~~

33 *SEC. 16.* The amendments to Section 289 of the Penal
34 Code, in Section 5 of this act, that define “sexual
35 penetration” for purposes of that section and use that
36 phrase throughout the section to replace repetitive
37 language, are intended to be technical only and not to
38 make any substantive change to that section or any other
39 provision of law, including any provision that refers to the
40 offense specified in Section 289 of the Penal Code.

1 ~~SEC. 19.~~

2 *SEC. 17.* In repealing Section 667.72 of the Penal
3 Code, in Section 9 of this act, the Legislature recognizes
4 that the conduct punished under that provision is now
5 subject to greater punishment under Section 667.71 of the
6 Penal Code. The repeal of Section 667.72 of the Penal
7 Code shall not be given any retroactive application, and
8 shall not be construed to benefit any person who
9 committed a crime or received a punishment while that
10 provision was in effect.

11 ~~SEC. 20.~~

12 *SEC. 18.* The amendment of Section 23558 of the
13 Vehicle Code, in Section 16 of this act, is intended to be
14 declaratory of existing law.

15 ~~SEC. 21.~~

16 *SEC. 19.* The amendments to Sections 666.7 and
17 1170.11 of the Penal Code, in Sections 7 and 12 of this act,
18 respectively, and to Section 23558 of the Vehicle Code, in
19 Section 16 of this act, shall not take effect until July 1, 1999,
20 if this bill is enacted and becomes operative prior to that
21 date.

22 ~~SEC. 22.~~

23 *SEC. 20.* This act is an urgency statute necessary for
24 the immediate preservation of the public peace, health,
25 or safety within the meaning of Article IV of the
26 Constitution and shall go into immediate effect. The facts
27 constituting the necessity are:

28 In order to correct and conform certain criminal law
29 statutes at the earliest possible time so as to avoid
30 confusion regarding these provisions, it is necessary for
31 this act to take effect immediately.

